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MEMORIAL

OF

GEORGE N. TATHAM

RELATIVE TO THE

NEW JERSEY CONSOLIDATED MONOPOLIES, THE PHILADELPHIA AND TRENTON RAILROAD CO., THE CAMDEN AND PHILADELPHIA S. B. FERRY CO., AND OTHER ASSOCIATED COMPANIES.

PRESENTED APRIL 18, 1852.

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To the Senate and House of Representatives of the Commonwealth of Pennsylvania:

The memorial of George N. Tatham, a citizen of Philadelphia, respectfully represents:

That "the Camden and Amboy Railroad and Transportation Company," and "the Delaware and Raritan Canal Company," commonly called "The joint or consolidated companies," being foreign corporations created by the laws of New Jersey, are invested with exclusive privileges, and a monopoly of the right of way by railroad and canal between the cities of New York and Philadelphia:

That the State of New Jersey and the consolidated companies levy imposts (in the name of transit duties) on passengers and merchandize carried across New Jersey, and exact discriminating fares and freights substantially against the citizens of other states, violating the spirit of the Constitution of the United States, and injuring the rights and commercial interests of Pennsylvania:

That in order to extend their monopolies into this Commonwealth, those companies have acquired by purchase the ownership or control of the "Philadelphia and Trenton Railroad Company," and of the "Camden and Philadelphia Steamboat Ferry Company:"

That a large amount of real estate in Pennsylvania, standing in the name of the two last named companies, is occupied by the officers, and used for the purposes of the "consolidated companies," and is believed to be really their property, held in secret trust, in order o evade the laws of this Commonwealth; and that the "consolidated companies" possess offices and depots, and have officers and agents in Pennsylvania, receive large sums of money, and profitably carry on extensive business, without being duly taxed on their business and the profits of their business.

These allegations the memoralist is prepared to substantiate by evidence afforded by the laws and public documents of the State of New Jersey, and by the admissions of the parties themselves.

The "Camden and Amboy Railroad and Transportation Company" and the "Delaware and Raritan Canal Company," were incorporated on the fourth day of February, A. D, 1830, by separate acts of the Legislature of New Jersey. On the fifteenth day of February, 1831, the two companies were consolidated by an act of the Legislature of New Jersey, and have since formed a single body under the name of the "joint or consolidated companies." Shortly afterwards, on the second of March, A. D., 1832, a law was passed which, among other provisions, enacts:

"SECTION 2. That it shall not be lawful, at any time during the said railroad charter, to construct any other railroad, or railroads, in this State, without the consent of the said companies, which shall be intended or used for the transportation of passengers or merchandise

Laws of N. Jersey incorporating, &c., page 32.

between the cities of New York and Philadelphia, or to *compete in business* with the railroad authorized by the act to which this supplement is relative."

With a charter thus extended, the "consolidated companies," on the completion of their railroad and canal acquired, of course, the whole inland transportation between the two great cities. But this monopoly was complained of as unjust, and, in many quarters, opposed. Among their early rivals was the Trenton and Philadelphia railroad company. This company was incorporated by the Legislature of Pennsylvania, on the 23d of February, 1832, to make a railroad from Kensington District, to the Trenton Delaware bridge, with a capital of one million of dollars. When the railroad was completed to the Trenton bridge, an effort was made to extend their route across New Jersey. For that purpose legislative authority was obtained to purchase stock in any other company necessary, "to complete a communication by railroad and steamboat to the city of New York." Accordingly, they purchased the stock of the *straight turnpike* from Trenton to New Brunswick; but in their intention to lay down rails, they were opposed before the Legislature, and in the court of chancery of New Jersey, by the "consolidated companies." The contest was suddenly brought to an unexpected close. *Robert F. Stockton*, *Robert L. Stevens*, and *Edwin A. Stevens*, who were among the principal officers and stockholders of the "consolidated companies," purchased 5500 shares (a majority) of the stock of the Philadelphia and Trenton railroad company. "By this purchase"—say the commissioners of the New Jersey Legislature in their report of 1850—"they secured the control of the operations of the Trenton and Philadelphia railroad company, and thus saved the necessity of a decision of the question argued before the chancellor." (Report 1850, part 2d., page 77).

Laws of Pennsylvania 1831, 1832, p. 86.

Supplement to P. and T. R. R. charter, April 6, 1848. Laws of Penna. 1848, p. 355.

Supplement laws of Pennsylvania 1834 5, p. 84.

Report 1850, part 2, p. 77.

The rivalry and opposition "being thus put an end to," the union of the three companies soon grew more intimate. At the request of the principal stockholders, "measures were taken for the *amalgamation* or *consolidation* of the stocks," (to use their own language), and on the first day of November, 1835, an agreement for that purpose was made, followed on the twenty-second day of April, 1836, by another and more formal agreement, executed by the presidents of the three companies, under the corporate seals, which remains in full force at the present time.

Report 1850, part 2, p. 81. Also investigation 1848, p. 21. Report 1850, appx. statement A., p. 5.

The fifty-five hundred shares stood in the individual names of *R. F. Stockton*, *R. L. Stevens*, and *E. A. Stevens*, up to 1840, when they transferred those shares to Messrs. Stockton and Stevens, the presidents in trust for the consolidated companies; and thus they now remain, the residue of the stock being chiefly held in the individual names of those same gentlemen (Rep. 1850, appx. 161) and others connected with them.

Report, 1850, W., p. 82-3,&c.

The Trenton and Philadelphia railroad company being thus annexed to the "consolidated companies," the next step was the annexation of the "Camden and Philadelphia steamboat ferry company," "the stock of which," says the State Director's report, "it was considered important to hold for the purpose of managing the said ferry, so as not to interfere with the *operations* of the said companies." Accordingly in 1837, or 1838, twelve hundred and seventy-one shares (being a majority of the two thousand shares composing the stock), were purchased, and have ever since been held by the "consolidated companies." The Camden and Philadelphia steamboat ferry company had been incorporated by the Legislature of New Jersey (March 5, 1836),

State director's report for the year 1847, p. 10. Report 1850, part 2, p. 88. Ib. appx., page 122 Ib. appx., ps. 9 and 10.

with a capital of one hundred thousand dollars, to establish a steamboat ferry across the Delaware between Camden and Philadelphia. Its annexation gave the "consolidated companies" the last link between New York and Philadelphia, and it has since been an efficient instrument in their operations. By an act of the Legislature of Pennsylvania (February 14, 1838), the ferry company was authorized to cut a canal, or navigable passage, through Wind Mill Island; and by acts passed in 1840 and 1843, they were allowed to hold real estate in this Commonwealth to the amount of three hundred thousand dollars. These Pennsylvania privileges have been fully used for the benefit of the New Jersey monopolies.

Laws of N. J., vol. 3, 1834, 1835, and 1836, p. 265 to 270.

Laws Pennsylvania 1837–8, p. 25 to 29.

Laws of Pennsylvania April 11, 1840, ps. 287 and 288.

Ib. April 19, 1843, page 375.

While the consolidated companies were annexing the only two companies which could interfere with the complete command of the inland communication between New York and Philadelphia, they were also acquiring the control of various corporations and unincorporated companies, which might assist or might stand in the way of their operations.

Investigation Dec., 1848, p. 22.

The history of these collateral annexations would too much extend this memorial. It is enough to state that almost, if not quite, all the other important transportation companies of New Jersey are now owned or controlled by the "consolidated companies," and form a single great union or confederacy of corporations.

Report 1850, part 2, p. 73. Loans, also appendix, p. 123.

Having thus shown how the "consolidated companies" acquired the monopoly of trade and travel between the two great cities, the next step is to exhibit the practical results of that monopoly.

Our rights are infringed and our interests affected:

1st. By imposts, called *transit* duties, which are imposed in favor of the treasury of New Jersey, on the transportation of all passengers and merchandise belonging to other States.

2d. By the discriminating fares and freights practically charged on citizens of other States, over and above what are charged on the citizens of New Jersey.

3d. By the extortion, for a long period, directly and indirectly, of higher fares and higher freights than even the excessive charges allowed by their own charters.

First, of the transit duties: By the original charters a duty of *ten cents* on every passenger, and *fifteen cents* on every ton of merchandise, was imposed alike on citizens of New Jersey and on strangers. The supplement of 1831, February 4th, alters this, and provides "That the said company shall pay to the State the sum of ten cents on each passenger carried on the said railroad across the State, between the Delaware river and Raritan bay." Subsequently a joint resolution of the Legislature of New Jersey, on the 10th March, 1842, regulates and finally adjusts the transit duty at ten cents on every passenger, and fifteen cents a ton on all merchandise carried across the State. This impost is irreconcilable with the spirit of the Constitution of the United States. If a State has a right to levy ten cents on every passenger across her territory, she has a right to levy ten dollars or a hundred, or still higher transit duties, and may effectually bar all intercourse among the people of the several States. That it should have been imposed by New Jersey is extraordinary enough; that it has been acquiesced in so many years by other States, is still more extraordinary.

Investigation of 1848, p. 13.

Re-published charter laws of N. J., 1847–9, vol. 5, p. 29.

Re-published charter of N. J. monopolies 1849, ps. 28 and 29.

Report 1850, p. 18, part 1.

Laws of N. J. supplementary to charter.

The transit duties and other considerations for the monopolies granted to the consolidated companies, yield the State a large amount of annual revenue. "The State of New Jersey," says the Directors' address of 1846 (page 151), "without having paid one dollar, has derived from her *lessees* and *partners* in this monopoly, two thousand shares of stock,

Address of the joint board of directors to the people of N. J., 1846, p. 15.

worth nearly two hundred and fifty thousand dollars ; and has received in transit duties and dividends up to the first of January last (1846), five hundred and thirty-one thousand two hundred and thirteen dollars," which, says the address, (page 16), "*is derived almost exclusively from strangers and persons not living in the State of New Jersey.*"

See State Director's reports for these several years.

For 1847 the revenue received by the State from these sources was $82,321 76; for 1848, $78,576; for 1849, $80,404 77; for 1850, $96,566 10, besides an extra dividend of twenty per cent., amounting to $40,000 additional; and for the year 1851, about $108,000. How much of this amount was paid by citizens of Pennsylvania cannot be accurately calculated.

Director's address 1846, page 18.

In their address to the people of New Jersey of March, 1846, the joint board of directors declare that "the State's share in transit duties, and dividends, of every three dollars, net money received for through passengers, is *sixty cents.*" It is obvious that without these transit duties, and without this monopoly, in which the State is also a partner, the through fares might be reduced twenty per cent., and with the same result to the company.

State Director's report for 1849, p. 25. Address 1846, page 18. Also address of the companies June 11, 1848, statement p. 27. Report 1850, part 1, p. 53. Report 1850, appx., B. (J. R. Thompson), p. 9. Ib. W. S. Freeman, appx. ps. 126–7.

But the transit duties are light in amount compared with the discriminating fares and freights between through and way transportation. By the State Directors' report of 1850, it appears (page 25), "on the roads of the united companies there are three classes of passengers. The first class of through passengers average 3.31 cents per mile; way passengers average 1.98 cents per mile; and the third class 1.66 cents per mile." On freights the discrimination was still greater. For the transportation of merchandise between New York and Philadelphia, the toll charged up to 1846 was eight cents a ton per mile, making seven dollars and sixty-four cents for the whole distance. But for the "transportation of *way* merchandise the railroad company was to receive just *one-half* of the above stated rates." Since 1846 the rates have been professedly modified, but the same proportion between threugh and way freight is still preserved. This practical discrimination in favor of the citizens of their own State rests on indisputable evidence.

State Director's report for 1850, p. 18. published in 1851.

The amount thus obtained annually from "persons not living in New Jersey," is very large. Every through passenger of the first class pays far more than he would if charged at the same rate as the way passengers. There were in 1850, three hundred and forty-five thousand four hundred and twenty-five through passengers; of whom one-half probably were of the 1st class. The through fares (although now reduced from the illegal charge of four dollars to three) upon the most productive road in the Union, are still about fifty per cent. higher than the rates elsewhere for similar or better accommodation. It appears by the report of J. C. G. Kennedy, Esq., of the United States Census Office, Washington, March 1, 1852, that "In New England the average price per mile for the conveyance of passengers is under two cents; from New York to Boston it is two and four-tenths; "from New York to Philadelphia three and four-tenths."

See Penn'a Inquirer March 17, 1852.

In addition to the transit duties and the discriminating fares, the "consolidated companies" charged from 1835 to 1849 an illegal addition of one dollar to the fare of the through passengers by their principal lines.

The act of 15th February, 1831, supplementary to their charter, provides:

Laws N. J. republished 1849, page 31.

"It shall not be lawful for the said companies to charge more than three dollars for the transportation of passengers from and to the cities of New York and Philadelphia."

Yet from 1836 to 1849, they charged four dollars fare on the lines which they ran over the Philadelphia and Trenton branch of their roads; and having an arrangement that two-thirds of their through passengers should be transported by this route, the number of those that paid the four dollars must have been very great. For the month of May, 1848, we have the published statement of the company that 9,017 through passengers were carried at $4. If this month is a fair average of the rest of the year, for which no statement has been published, the illegal excess for the year 1848 exceeded 108,000; and for the thirteen years must have been between one and two millions.

S. D's. Report for 1849, p. 6. State Director's report for 1850, page 4. Address June 11, 1848, p. 27. Statement B. Report 1850, part 2, ps. 86–7. Address 1848, A., p. 27.

But the more extraordinary class of extortions, were those practised through the "New Brunswick steamboat and canal transportation company," one of the many subordinate bodies connected with the consolidated monopolies.

Report 1850, part 2, p. 91.

The New Brunswick company, better known as the "Napoleon line," was chartered by the Legislature of New Jersey, in January, 1831. The original capital paid was $25,000, in 200 shares of $125 each. In May of the same year a majority of the stock was transferred to E. A. Stevens and his associates; "other persons interested in the joint companies became afterwards owners of part of the said majority of stock, and it appears to have been under the control of persons who were directors of both of those companies from 1835 to the present time." The New Brunswick company being in the hands of the directors of the consolidated companies, they authorized one of their number, Mr. E. A. Stevens, "to consummate an arrangement with the New Brunswick steamboat company for the transportation of merchandise over the Camden and Amboy railroad" (Hagar's bill *vs.* Stephen's et. al. and answer 1847); and the same Mr. E. A. Stevens being the representative of the Brunswick company, the arrangement was consummated on terms mutually satisfactory. Of those terms, as given in the legislative investigation of 1850, some of the most pertinent are here extracted:

Bill in chancery, J. D. Hagar vs. E. A. Stevens et al, March 25, 1847. Answer to do. J. D. Hagar's pamphlet Jan. 13, 1848, p. 5. Report 1850, part 2, ps. 91–2.

The railroad company was to furnish all the necessary facilities, such as cars, engines, fuel, and firemen; and the New Brunswick company was not required to embark any capital in the business. "The latter company was to pay the former seven dollars and sixty-four cents a ton for the transportation of merchandise between New York and Philadelphia, being at the rate of eight cents a ton per mile, and for the transportation of way merchandise, just one-half of the above stated rates."

Report of 1850, part 1st, p. 53. See also appx., p. 127.

"The basis of this arrangement," says the legislative investigation, "was evidently the highest rate allowed by the charter to be charged for tolls and transportation. The joint companies received the full amount named in this charter without deductions for the expenses of the receipt or delivery of goods, or for the losses and damages incident to the business; and they also appear to have considered that they were relieved from the legal obligations which would have attached to them as common carriers." "Under this contract the New Brunswick company forwarded all the merchandise carried over the railroad from January 1st, 1835, to April 1st, 1846, and charged shippers various prices, generally exceeding seven dollars and sixty-four cents per ton, for the through freight. It is therefore obvious that the New Brunswick company must have received much more for the transportation of merchandise than eight cents per ton per mile (the legal rate). What the whole amount of that excess has been, or what disposition has been made of it, we (the commissioners) have not enquired, nor have we deemed it our duty to enquire."

Report of 1850, part 2d, p. 94. See also investigation 1848, ps. 50, 51, and 52, by J. G. King, Wm. Pennington and C. Parke, coms. Report 1850, part 2, p. 94.

The motive for the arrangement between the companies is thus

Ib. appx 125–6. explained by Wm. A. Gatzmer in his evidence on oath before the committee of investigation. And this explanation is more positively corroborated by the evidence of J R. Thompson, the secretary of the joint board.

See J. R. Thompson's evidence report 1850, p. 13.

"I think it very likely that the joint companies also have left the transportation on the railroad to be done by the Napoleon company, from the idea that the Napoleon company were not limited by any restrictions as to the rate of charges for freight or otherwise, and that the railroad company was entitled to charge them the full amount of tolls expressed in the charter, without expense to themselves. They also deemed it important to themselves to be free from the liability of common carriers, the whole responsibility of which, it was supposed by this arrangement, was borne by the Napoleon company."

See also report 1850, part 1, ps. 52–3.

See State Director's report of 1848 for 1847, p. 13.
Also for 1848, p. 17.
Also for 1849, p. 15.
Report 1850, part 1, p. 54.

Thus from 1835 to 1846 under an agreement made by the directors of the consolidated companies virtually with themselves, the restrictions on freight, imposed by their charters, were evaded.

Stevens' answer in chancery April 16, 1847, p. 28.

In 1846 the agreement was dissolved, "and for a short time the railroad company themselves carried on the whole transportation business across the road, under the old name of the Union transportation company." The operations of the Union transportation company have not yet received a legislative investigation, but from the persons concerned in it, being principally those who were in the old arrangement, and from other evidence, there is reason to believe that it was only another form of the same system.

See charter of the Phila. and N. Y. Steam Trans. co. March 8, 1850. Penna. laws, p. 140 and 1841.

The management of the Napoleon company seems to have been chiefly in the hands of Mr. E. A. Stevens. "We," says Mr. J. D. Hagar, speaking (under oath) of himself and several of the stockholders, "made application to Mr. Stevens for an expose of the affairs of the company; and he replied that it could not be done, that the books could not be exhibited; that was his way of doing business, he managed the company as a close corporation." And Mr. Stevens, in his answer in chancery, says (page 31) "it was important to the interests of the stockholders that the business and profits should not be made public."

See State Director's report of 1847–8, free list, ps. 29 and 30.

Hagar's evidence report 1850, appx., p. 172.

No full meetings of the stockholders (says Mr. Hagar) were held between 1838 and 1847. Even the president of the company and the treasurer were not acquainted with its business.

Hagar's pamphlet Jan. 13, 1848, p. 8.

Bill in chancery N. J., Hagar vs. Stevens et al., March 25, 1847.

The bill in chancery by Jno. D. Hagar, one of the stockholders, against Edwin A. Stevens, Jno. Neilson, and Jno. R. Thompson, throws some light on the subject. To settle this chancery suit, an account in January, 1848, was stated on behalf of the company, and each share of the stock was estimated to be worth $1,455 97. This amount per share was actually paid to Mr. Hagar for the shares held by him.

J. D. Hagar vs. Stevens, Neilson & Thompson; 2d bill in chancery, Oct. 1, 1850.

Current dividends had been made from 1831 to 1847, for the first four years, of forty per cent. per annum, and afterwards of sixteen per cent. per annum. There is reason to believe that these profits and this accumulation were under estimated, if an opinion can be formed from the second bill in chancery, at the suit of Mr. Hagar against the same defendants.

Answer in chancery. April 16, 1847, p. 25.

In addition, the amount of the "excess" (as the report of 1850 terms it) over the legal freights may be imagined from the enormous amount of merchandise transported by the Napoleon company, which, prior to the year 1846, sometimes (say Messrs. Stevens, Neilson, and Thompson) "exceeded one hundred millions in value in a single year." On all of which, from January 1, 1835, to April 1, 1846, the New Brunswick company charged shippers various prices,

generally exceeding seven dollars and sixty-four cents per ton for through freight. Report 1850, part 2, p. 94.

While the transportation business of the consolidated companies was thus farmed out to the "New Brunswick company," the latter company itself operated through subordinate unincorporated nominal companies. The Union transportation line,—The merchants line,— The swift sure line, &c., in whose names the bills of lading for merchandise received on freight were ordinarily given, and on whom the responsibility (such as it was) as common carriers was ultimately thrown. "Fictitious" Hagar's bill, p. 21. "Assumed name." Answer, p. 13, and p. 28.

Our citizens have frequently complained of and remonstrated against the illegal burdens on their intercourse with New York. In the year 1848. a strong memorial to Congress, of the merchants and business men of Philadelphia, asked the interposition of the National Government. Even the State of New Jersey herself, has not altogether been satisfied with the monopolies erected under her own laws, and two several legislative investigations have been made. But the power and influence of the consolidated companies in New Jersey is beyond domestic control. The investigations resulted in a developement of facts, but not in an arrest of the injustice done to citizens of Pennsylvania and New York. In New Jersey, however, the honest dissatisfaction with the monopoly has been such that the consolidated companies have been forced to justify and excuse their privileges. This has been done by appealing to State pride and State interest. Investigation of 1848, ps. 21 and 66.

"These (say they in their address of 1848, speaking of their charters) these are the statutes of a sovereign State—we are her citizens—she knows how to preserve her laws inviolate. She never falters in her duty to her sons." And in their address of 1846, they reproach "a strong disposition on the part of many of our own citizens (of New Jersey) to embarass the operations of *their own agents and partners*, and to abate rather than increase their prosperity. This might be understood, if the receipts of the companies were derived from their own citizens, or were regarded as taxes on them. But they are derived almost exclusively from strangers, and persons not living in New Jersey." Address June 11, 1848, ps. 6 and 7. Joint board of directors' address 1846, p. 16.

This tone seems to infect the State functionaries themselves. "New Jersey" (say the State directors in their report, Jan. 12, 1848) "may well be proud of her position. While other States, in carrying out their systems of internal improvements, have been embarrassed and in many instances driven to *repudiation*, she, without incurring the responsibility of a single dollar, has abundant means for all present purposes." How far this peculiar style of defence should recommend these consolidated monopolies to the favorable consideration of the people and the Legislature of Pennsylvania, need not now be enlarged upon. Report for 1847, p. 15.

In restraining this powerful confederacy of corporations, the most extensive and powerful that has ever existed in this country, difficulties may appear in the way of legislation, but the case is not beyond a remedy.

The charters of the "consolidated companies," are the statutes of a another state, and cannot be touched. But the companies themselves have come upon your soil—have thrust themselves within your jurisdiction; they transact extensive business in Pennsylvania—they have branches here. Those branches and that business are amenable to your legislation.

That the *Trenton and Philadelphia railroad company*, and the *Camden and Philadelphia steamboat ferry company* are virtually branches of the consolidated companies, is sufficiently manifest. But additional facts may be given. In respect to the Philadelphia and Tren-

Report, 1850, part 2, ps. 75 to 81.

ton railroad company, the agreement of April 22, 1836, stated in the preamble to be intended for the amalgamation or consolidation of the stocks, proves the connection of the *three companies*. The operative causes are here transcribed:

"Now this Indenture made this 22d day of April, A. D., 1836, between the president and directors of the Delaware and Raritan Canal and the Camden and Amboy railroad and transportation companies, parties of the one part, and the President and Directors of the Trenton and Philadelphia railroad company, party of the other part, Witnesseth, that the said parties for themselves and their successors, severally, do hereby covenant and agree, and each with the other, and their and each of their successors, that from and after the first day of June next ensuing, during and until the expiration of their said charters, respectively, the clear profits arising from the stock of the said companies shall be divided among the stockholders of the said companies, share and share alike."

Evidence of J. Morrell, Sec'y. Report, 1850, Appx. ps. 160, and 161.

Notwithstanding this agreement, it is remarkable that there has been a difference in the nominal amounts of the dividends declared by the companies only, but there has been no difference in the amount of profits actually received or appropriated.

Proviso to sec. 15, of charter. Laws of Penn'a 1831, Feb. 23, 1832, ps. 86,95. Supp. March 21, 1835. Penn'a laws 1834 and '35, p. 84. Supp. April 6, 1848.

How far the provision in the charter of the Philadelphia and Trenton railroad company, requiring that the company should pay a tax of eight per cent. upon all dividends over *six* per cent., into the Treasury of Pennsylvania, may have induced this arrangement, your memorialist cannot state. But he is informed that no such tax has been paid. The amount of taxes due and unpaid to the Commonwealth of Pennsylvania, by the Philadelphia and Trenton railroad company, if estimated upon a similar amount of profits that were divided by the joint companies from 1835 to 1852, would amount in principal money to about $64,400

Report, 1850, part 2, ps. 43 to 46, and p. 55. Appx. 160&161. See also State Directors' reps. subsequently.

And interest thereupon, calculated from the dates when it ought to have been paid, would amount to about 23,176

$87,576

It is believed that some declaratory legislation hereupon may be desirable.

Report, 1850, appx. p. 122.

The accounts of the companies were to have been kept separate, and a separate organization has actually been maintained, but the business, in fact, has not been kept separate. There is the same superintendent, Edwin A. Stevens, for both roads. The same executive committee exercises jurisdiction over both ways, or rather the same persons compose the executive committee for both companies. The repairs of the Philadelphia and Trenton railroad are mainly done by the workmen of the Camden and Amboy railroad, and it passes the same extensive free list. The Philadelphia and Trenton railroad equalizes dividends, purchases and holds real estate for the use of the monopoly, and shares in all the profits of the consolidated companies—is thus a partner in fact, whatever name may be given to the connexion.

State Director's report 1847, ps. 29 to 36. See wharves at Walnut st. Report 1850, appx. 124, and Supplement to charter April 6, 1848. Laws of Penna. 1848, p. 355.

In respect to the Camden and Philadelphia ferry company, the connection is somewhat different. A majority of the stock being held in trust for the consolidated companies, it is completely under their control. It aids and abets and participates in their exclusive privileges. It shares in the discriminating fares and freights levied on the citizens of Pennsylvania. It is a partner in the profits in their business; a borrower of money and a purchaser of real estate for their

State Director's report for 1847, ps. 9 and 10. Report 1850, appx. p. 9, also 122, 123 124, and 125.

use, and must be held to the consequences of a partnership. The real estate this company holds in the State of Pennsylvania, stands on a footing which raises a suspicion of complicity with the consolidated companies. Instead of declaring dividends (never having declared but one), she has invested her earnings in real estate. And her real estate, *earned* in a few years, on a capital of one hundred thousand dollars, now amounts to several hundreds of thousands. Whether this real estate is necessary for the purposes of her business, "*and no more*," according to the limitation of her New Jersey charter, or according to the true intent of the Pennsylvania acts of 1840 and 1843, need not here be examined. But $\frac{1271}{2000}$ parts of those earnings belong to the consolidated companies, and being vested in real estate will raise an implied trust in their favor. If really purchased out of *earnings*, it only proves the large participation of the Ferry company in the excessive profits of the joint monopolies. If purchased with funds directly advanced (as early as 1836) by the consolidated companies, or parties on their behalf, it will be subject to a secret trust, and to escheat.

Report 1850, appx., p. 9. Investigation of 1848, p. 22. Report 1850, part 2, p. 73. Ib. appx., p. 123 to 125. State Director's report 1847, p. 10. Investigation 1848, p. 22. Report 1850, ps. 89 and 90. Also appx., p. 11. Answer in chancery E. A. Stevens, ps. 21 to 24.

The extensive business directly transacted in Pennsylvania by these consolidated monopolies cannot be here detailed. They own eight steamboats on the waters of the Delaware. They have been engaged in mining coal in Schuylkill county, and were interested in coal boats to a large amount. They have been interested in running steamboats in opposition to others, of which a remarkable instance may be found in 1842, in the appendix, page 115, to the report of 1850. At their offices and depots in Philadelphia a large proportion of their receipts for fares and freights (including the very discriminations against our own citizens), is actually collected. Their business here may properly be made subject to taxation. Their officers and parties interested can be brought within Pennsylvania jurisdiction. Their monopoly is practically upon our soil, and it can be restrained or repressed by our laws.

Report 1850, appx. 123. Report 1850, appendix, 124. Report 1850, appendix page 30. Also report 1850, p. 99.

The undersigned will further call the attention of the Legislature to an act recently passed by the State of New Jersey taxing gold and silver passing over her soil. If that State has a right to tax the transportation of bullion two cents for every 10 miles, she may tax it indefinitely, and she has a right to enforce such imposts, if necessary, by means of custom houses and by armed force. How far this may contribute to remove the United States mint from the city of Philadelphia remains to be seen. And how far it is in accordance with the provisions of the Constitution of the United States, is now left to the Legislature of Pennsylvania.

That the whole case requires legislative interposition can hardly be doubted or denied.

The remedy is for you to devise. There are abundant grounds legally to repeal the charter of the Philadelphia and Trenton railroad company. It is also in the power of the Legislature to cancel the privileges of the Camden and Philadelphia ferry company.

See charters of the P. and T. R. R. co., sec. 20. Laws 1831–2, p. 96.

The consolidated monopolies themselves might be taxed upon their offices, their business and their estate. Their exorbitant freights and fares might be curtailed by legislation, and any infringement of such laws might be punished in our own courts.

See act of 14th Feb'y 1838, section 6.

Upon these, and many correlative matters, the undersigned will not enlarge. The subject presented is of no small consequence in all its relations. It is respectfully committed to the wisdom of the Legislature.

Laws 1837–8, ps. 28–9.

GEORGE N. TATHAM.

HARRISBURG, April 15, 1852.